

### **REMARKS/ARGUMENTS**

Claims 3-14 and 16-31 remain in this application.

#### **Rejection Under 35 USC 103**

Claims 3-14 and 16-31 (please not claims 1-2 and 15 were previously cancelled) were rejected under 35 USC 103 as being unpatentable over US Patent No. 4,372,296 ("Fahim"). in view of US Patent No. 6,522,918 ("Crisp") and in further view of Sage et al. (U.S. Patent No. 5,935,598), Joshi (US Patent No. 6,775,570), Muller et al. (US Patent No. 5,928,185), and Phipps (US Patent No. 6,004,309), and further in view of Ledger et al. (US Patent No. 5,624,425), Phipps (US 6289241), Crawford et al (US2002/183685), or EP 0337642. See pages 2-4 of the Office Action. Applicants respectfully disagree.

The Office action on pages 2-3 asserts that "the Fahim patent discloses a method of treating acne on the skin, the method comprising applying to the skin electrochemically generated zinc ions. . . . The Fahim patent does not disclose the use of an apparatus having an anode comprising of zinc. However, the application of zinc ions using a device having an anode comprising zinc is conventional in the art as evidenced by the teachings of Crisp et al. . . . based on the teachings of Crisp et al, for a person of ordinary skill in the art, modifying the teachings of the Fahim patent with the use of the electrolytic apparatus oif Crisp et al., would have been considered obvious in view of the conventionality of the use if electrolytic apparatuses to treat skin with zinc ions." Applicants respectfully disagree.

First, while Fahim et al. discloses he use of zinc ions, Applicants cannot find where it discloses electrochemically generated zinc ions. Rather, Fahim teaches the simple use of zinc salts. Thus, Applicants are uncertain why one of ordinary skill in the art would look to combine the teaching of Fahim with that of electrolytic devices. Second, the device of claim 1 of the present invention is one "wherein said first conductive electrode is in electric communication with said second conductive electrode." Such a configuration is not disclosed in Crisp et al. For example, as disclosed on col. 2, lines 63-65, "The plurality of openings is defined by a plurality of inner surfaces that together have an inner surface area, with the plurality of inner surfaces comprising silver. The device also includes a second region comprising a metal-bearing material other than silver. The second region

does not touch the first region.” As the metals are not in contact with each other, they are not in electric communication as recited in claim 1.

The Office Action further asserts that “Ledger et al., Phipps, Crawford et al., or EP 0337642, individually, or in combination at least suggest the conventionality of designing an apparatus wherein both the first conductive electrode and the second conductive electrode are in ionic communication with the carrier. Accordingly, . . . modifying the apparatus disclosed by Sage et al., with a first conductive electrode and a second conductive electrode in ionic communication would have been considered obvious in view of the proven conventionality of this enhancement.” See Pages 3-4 of the Office Action. Applicants respectfully disagree.

Ledger et al. describes a device wherein both the first conductive electrode and the second conductive electrode are not in ionic communication with the carrier, as the device in Ledger et al. contains an “electrical insulator 20” between the electrodes. See Ledger et al, col. 5, lns. 51-55. Similarly, Phipps et al. also discloses a device where electrodes 31 and 45 that deliver electricity into the skin are not in ionic communication with the same carrier (see Fig. 2 of Phipps et al.). With respect to Crawford et al., paragraph 42 of the reference states “In using the present device for iontophoretically enhanced drug delivery, a separate electrode of opposite polarity to the patch electrodes may be used in order to generate the potential gradient across the artery or other body tissue. This electrode is positioned elsewhere on or in the patient's body (usually the skin) and may be attached using any known means, such as ECG conductive jelly. Alternatively, a catheter electrode may be used as the second electrode.” Thus, this separate electrode is clearly not in contact with the same carrier as the patch electrode. Lastly, EP0337642 also fails to disclose or suggest such a device, see, e.g., col. 10, lines 49-58 and Figure 16 where the electrode 43 is attached directly to the skin such that current passes from the human or animal body to the electrode 43.

As discussed on page 10 of the present application, “an advantage of such an embodiment of the present invention includes the capability of delivering simultaneously active agents of opposite charges from the same carrier into substantially the same skin site under the conductive electrodes.”

Accordingly, Applicants respectfully request that this rejection be withdrawn.

Applicant respectfully requests that a timely Notice of Allowance be issued in this case.

Respectfully submitted,

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